

# EXHIBIT 5

Volume 1  
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COMMONWEALTH OF MASSACHUSETTS  
COMMISSION AGAINST DISCRIMINATION

LOUIS P. ALBERGHINI,  
Complainant

VS.

SIMONDS INDUSTRIES, INC.,  
Respondent

DEPOSITION OF LOUIS P. ALBERGHINI, taken at the request of the Respondent, pursuant to the applicable provisions of the Massachusetts Rules of Civil Procedure, before Karen G. Farragher, RPR and Notary Public in and for the Commonwealth of Massachusetts, on October 23, 2002, commencing at 10:16 a.m., at the offices of Bowditch & Dewey, 311 Main Street, Worcester, Massachusetts.

FOR THE RECORD  
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A P P E A R A N C E S:

FOR THE COMPLAINANT:

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Gardner, Massachusetts 01440

FOR THE RESPONDENT:

BOWDITCH & DEWEY  
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Worcester, Massachusetts 01608  
BY: JONATHAN SIGEL, ESQ.

ALSO PRESENT: Ilda M. Thibodeau  
David P. Witman

I N D E X

DEPONENT: LOUIS P. ALBERGHINI

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P-R-O-C-E-E-D-I-N-G-S

MR. SIGEL: Usual stipulation?

MS. ELLIOTT: Usual stipulation. He will read and sign.

MR. SIGEL: Okay.

MS. ELLIOTT: Thirty days, waive notary.

MR. SIGEL: Great. So waive objections except as to form of the question at this point.

MS. ELLIOTT: Yes.

MR. SIGEL: The usual, all right.

LOUIS P. ALBERGHINI, SWORN

EXAMINATION BY MR. SIGEL:

Q. Mr. Alberghini, my name is Jonathan Sigel. I represent Simonds Industries in this case and I want to ask you, first of all, if you have any health condition or if you're taking any medications that would impair your memory or ability to testify truthfully at this deposition?

A. No.

Q. Mr. Alberghini, have you ever been deposed before?

A. No.

Q. Just some grounds rules. I'm going to ask you some questions. If there is anything that you

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1 did all those things.

2 Q. Were you told why he was in that position  
3 and why you were not given that position?

4 MS. ELLIOTT: Objection. You can answer,  
5 if you can.

6 A. I didn't make any waves. I had a job. I  
7 was back to work. I enjoyed working at Simonds. I  
8 liked working there. And I liked the job I was doing.  
9 Project engineer was very interesting and it piqued  
10 me. That's why I didn't complain. He took over my  
11 jobs and, in fact, he was coming in and asking me  
12 about the job that he was doing, the job that I was  
13 doing before and that's how I knew.

14 Was I mad? Yeah, a little bit. It takes  
15 a lot out of you when you get laid off, you know, then  
16 I was elated when I came back, but I did know that  
17 they didn't eliminate that position. They just moved  
18 all my job duties to him.

19 Q. Okay, that's fine although it didn't  
20 answer my question. My question was: Were you told  
21 why he was doing that position and why you were not  
22 offered that position of facilities manager?

23 A. No.

24 Q. Did you have or do you have now any belief

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1 as to why he was selected for that and not you?

2 MS. ELLIOTT: Do you know what he is  
3 asking you?

4 A. No. Please ask it again, you know. Go  
5 ahead.

6 MR. SIGEL: Repeat the question, please.  
7 (The record was read by the reporter as  
8 requested.)

9 A. Because they made the statement that they  
10 were eliminating my level and they were going to put  
11 all my jobs or projects or whatever you call them,  
12 under the plant manager but he couldn't handle -- the  
13 plant manager couldn't handle all that work. There is  
14 no way that he could do all of that. So they had to  
15 give it to someone else to handle.

16 Why they didn't keep me and let him go?  
17 Because he wasn't at that level.

18 Q. At what level?

19 A. At the level I was at. When they say they  
20 were going to take this level out and remove it, they  
21 had to do that or there would be discrimination  
22 charges against them, if there was age involved and  
23 there was age involved and they knew that.

24 Q. So do you believe their reason for

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1 selecting Mr. Scozik was based on his age versus your  
2 age, selecting him for that facilities manager  
3 position?

4 A. Yes.

5 Q. What do you base that opinion on?

6 A. Just the facts.

7 Q. What facts?

8 A. The fact he is younger than I was. That  
9 was my position before and I should have got it back.  
10 I think they did -- if I remember correct, there was  
11 something said that we didn't drop down in level.

12 In other words, I could not go back and  
13 apply for a job that was below my level if you can --  
14 you know, the level in the hierarchy or whatever you  
15 want to call it, all right. That was, if I remember  
16 correct, that was one of the statements made.

17 Q. Do you know how old Mr. Scozik is?

18 A. No, I don't.

19 Q. Do you know how many years younger than  
20 you he is?

21 A. No.

22 Q. But you're sure he is younger than you?

23 A. Yes.

24 Q. Do you know if he is in his forties?

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1 A. I don't think so. If you want me to guess  
2 how old I believe he is, mid '50s maybe, early '50s.

3 Q. Okay. And you believe that the basis of  
4 the company's decision to put him into that position  
5 and not you was because he was younger than you?

6 A. No, what I said was they had to eliminate  
7 a level and when they said they were eliminating that  
8 level, all those projects would be put under the plant  
9 manager's job and there is no way the plant manager  
10 could handle that job. So they took all my projects  
11 and gave them to Tom, instead of hiring me back and  
12 into that position.

13 Q. So is your answer no, you don't believe it  
14 was based on age?

15 MS. ELLIOTT: Objection.

16 A. At that time, I didn't believe it at that  
17 time, no.

18 Q. Do you believe it now?

19 A. No.

20 Q. In January of 2000, the company underwent  
21 a reduction in force; correct?

22 A. Yes.

23 Q. There were others laid off in January of  
24 2000 besides you; is that right?



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1 exhibit, which I think is number seven.  
2 (Alberghini Deposition Exhibit No. 7  
3 marked.)  
4 Q. Ask you if you could just, Mr. Alberghini,  
5 review that document. For identification purposes, it  
6 says at the top, Simonds Industries, Inc. and position  
7 title, metallurgical technician. I'd like to ask if  
8 you had a chance to review that?  
9 A. Uh-huh.  
10 Q. And I'd ask you if you believe you, at the  
11 time you were laid off, qualified to perform the  
12 duties of that position?  
13 A. Was I qualified?  
14 Q. Correct.  
15 A. As assistant to the metallurgist? I  
16 probably could have handled it.  
17 Q. So it's your testimony you could have  
18 performed each of those functions?  
19 A. Yeah, I think I could.  
20 Q. Had you had any experience?  
21 A. No, but that doesn't seem like it's too  
22 hard a thing to do.  
23 Q. Do you know what is required to be a  
24 metallurgist as far as educational background?

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1 A. I imagine you can work at it.  
2 Q. I guess I mean formal education,  
3 background, other than experience. In other words, do  
4 you have any knowledge as to what educational  
5 qualifications are necessary to become a metallurgist?  
6 A. No.  
7 MR. SIGEL: Can we mark this as the next  
8 document.  
9 (Alberghini Deposition Exhibit No. 8  
10 marked.)  
11 Q. Mr. Alberghini, do you know what the  
12 duties of the metallurgist are or were at the time you  
13 were at Simonds?  
14 A. I knew some of the things they did, I  
15 think, if I can recollect. They took samples, tested  
16 them for their hardness. Also, check the machines to  
17 make sure that the temperatures were correct on the  
18 machines.  
19 They looked into the metal structure, to  
20 see if temperatures were correct to say if the  
21 temperature, you know, the construction of the metals  
22 was okay for the product, something like that.  
23 Probably many other duties.  
24 Q. Do you believe you were qualified to

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1 perform that position?  
2 A. With training, probably not qualified at  
3 that time, no.  
4 Q. Would you know how to develop and/or  
5 refine thermal processing techniques?  
6 A. Would I know how to do that?  
7 Q. Correct.  
8 A. Well, I did have it in school. I suppose  
9 I could go back, look it up, but no.  
10 Q. I show you Exhibit No. 8 now, ask you to  
11 review that. Have you seen that document before?  
12 A. No.  
13 Q. Were you employed at the same time as  
14 Mr. Dexter that he was pursuing a mechanical  
15 engineering degree?  
16 A. Yes.  
17 Q. How did you become aware of that?  
18 A. Just general knowledge.  
19 Q. Did he tell you?  
20 A. I don't think so. Well, you mean back  
21 when he was working as a student?  
22 Q. Correct.  
23 A. I don't know if he told me or somebody  
24 else told me.

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1 Q. Do you know one way or the other whether  
2 he achieved that degree? I should say a bachelor's  
3 degree in mechanical engineering.  
4 A. I never saw his diploma, if that's what  
5 you mean.  
6 Q. Do you know at the time also whether he  
7 was pursuing with that mechanical engineering degree  
8 he was pursuing, he was focused in material science?  
9 A. No.  
10 Q. Do you know what material science is?  
11 A. Are you going to explain it to me?  
12 Q. I'm not the one to ask. So I guess that's  
13 a no?  
14 A. No. Well, I could guess at it.  
15 Q. Okay. Well --  
16 MS. ELLIOTT: No, don't guess.  
17 Q. Don't guess. I mean, I'm asking you if  
18 you know. Did Mr. Dexter, at the time that he was  
19 there as a student, did he make any contributions to  
20 your group?  
21 A. To my group? What group?  
22 Q. Well, to the engineering group to your  
23 knowledge?  
24 A. Did he make contributions?